

REMARKS/ARGUMENTS

Favorable reconsideration of this application is respectfully requested.

Claims 1, 5-9, 13-17, 21-25, and 29-36 are pending in this application. Claims 1, 9, 17, and 25, were rejected under 35 U.S.C. § 112, second paragraph. Claims 1, 5-9, 13-17, 21-25, and 29-36 were rejected under 35 U.S.C. § 103 as unpatentable over U.S. patent 5,566,291 to Boulton et al. (herein "Boulton") in view of U.S. patent 6,181,981 to Varga et al. (herein "Varga").

Addressing first the rejection of claims 1, 9, 17, and 25 under 35 U.S.C. § 112, second paragraph, that rejection is traversed by the present response. Specifically, each of those claims is amended to delete the reference to the "object derived from the abstract class". That amendment is believed to address the rejections under 35 U.S.C. § 112, second paragraph.

Further, applicants submit the amendments do not raise any new issues that would preclude entry of the present response. The presently submitted amendments merely delete a phrase that was not considered in the Office Action with respect to any of the art, and clearly puts the present application in better form for appeal without raising any issues that have not already been considered. Thereby, entry of the present amendments are believed to be proper.

Addressing now the rejection of claims 1, 5-9, 13-17, 21-25, and 29-36 under 35 U.S.C. § 103 as unpatentable over Boulton in view of Varga, that rejection is traversed by the present response.

Each of the independent claims recites that the monitoring unit starts the monitoring "automatically upon start-up of the image forming device without the user directly starting a monitoring program." That feature is similar to a feature recited in co-pending U.S. application serial no. 09/311,148, which was found allowable based on a Board of Appeals

decision. Such a feature is believed to distinguish the claims as currently written over the applied art.

Applicants first note the outstanding rejection has not addressed why or how the outstanding rejection is maintained in view of the decision of the Board of Appeals in the related co-pending U.S. application serial no. 09/311,148. As noted below applicants submit statements made by the Board of Appeals in that decision are relevant to the above rejection and have not been addressed. Applicants respectfully request that it be stated on the record how the Board of Appeals decision in related co-pending application serial no. 09/311,148 is being interpreted so that the outstanding rejection is consistent with that decision. Applicants believe it is clear the outstanding rejection is improper and the Board of Appeals recognized that a similar basis for the rejection in the present application as in co-pending U.S. application serial no. 09/311,148 is improper.

More specifically, applicants submit the Board in that related case found the positions advanced by the Examiner, which are similar to the positions presented in the present application, to be unfounded. In that decision the Board recognized that Boulton provided an “explicit requirement ... of the user activating an enter feed mode command to initiate the user feedback operations that are extensively shown and discussed in Boulton”.¹ Applicants respectfully submit that in view of the above-noted comments clearly Varga does not overcome such express disclosures in Boulton, for similar reasons as recognized in the noted Board of Appeals decision.

Similar comments as above were presented in the previous response and were not addressed in the Office Action, and thereby applicants request that it be stated on the record how the current rejection is consistent with the above-noted Board of Appeals decision.

¹ Board Decision in 09/311,148, bottom of page 5.

Applicants submit the present rejection is clearly improper in view of issues already considered by the Board of Appeals.

In detail, the claims are directed to a system in which a user's selection of operations on an interface of an image forming device, for example a facsimile, a copier, a printer, a scanner, are monitored. That is, as recited in the claims, how a user utilizes an interface of an image forming device is monitored. Further, that monitoring is effectuated without the user having to directly start a monitoring program. Those features recited in the claims are believed to clearly distinguish over the applied art.

As discussed in the present specification for example at page 20, line 22 et seq., when a target application MB starts up, the MB object calls a function startMonitoring of a CMonitoringIF object 1305, which begins logging data corresponding to a user's usage of a user interface 510. Thus, the monitoring is automatic upon start-up of the target application and does not require the user to directly execute a specific monitoring program, i.e. the user does not need to take any action besides starting up the target application to begin the monitoring.

The above-noted features are believed to clearly distinguish over the applied art.

The basis for the outstanding rejection recognizes deficiencies in Boulton not teaching automatically starting a monitoring without requiring a connection to a receiving device to which the log of the monitored data is to be sent. In that respect applicants note Boulton also clearly fails to teach or suggest, and in fact teaches directly away from, "automatically starting a monitoring upon start-up of an image forming device without the user directly starting the monitoring program". To overcome the recognized deficiencies in Boulton the outstanding Office Action cites Varga, particularly noting column 2, line 65 to column 3, line 13.

In reply to that basis for the outstanding rejection applicants submit Varga is completely unrelated to Boulton and that no combination of teachings of Varga and Boulton meets the claim limitations.

First, Varga is directed to an inventory maintenance for a vending machine. Such a disclosure in Varga is completely unrelated and has no relevance whatsoever to the device of Boulton. Boulton is directed to a system in which a user can input specified typed commands as feedback after entering an enter feedback mode. A disclosure to monitoring the inventory of a vending machine has no relevance whatsoever to such a device, and it would be non-sensical to one of ordinary skill in the art to try to attempt to combine such teachings. Clearly the only basis for combining the teachings is to make an improper hindsight reconstruction of the claims.

In fact the stated motivation to combine the teachings of Varga to Boulton is “to make it easy for the user by not requiring him/her to directly execute a specific monitoring program”.²

That basis for the outstanding rejection is not understood and in fact is *directly contrary to the teachings in Boulton*. Boulton clearly could not have been modified by the teachings in Varga to meet the claim limitations.

More particular, Boulton is specifically directed to a device for allowing user feedback. In Boulton “feedback” is defined as comments, suggestions, questions, or other information sent by a user or learner to an author of the learning material, reviewer of the learning system, providing of a product, process, service, or issue, or other person responsible for improvement, maintenance, organization, or content of a product, process, or service.³ In such ways, in Boulton the user is *required* to input the monitored information to be provided to the reviewing party. Further, it is also clear from Boulton for example from Figure 20,

² Office Action of November 14, 2006, the sentence bridging pages 4 and 6.

³ Boulton at column 8, lines 59-65.

step 286, and the disclosure at column 39, lines 42-47 and column 40, lines 1-3, that in Boulton a user must initiate an action to even perform the “feedback” therein. That operation in Boulton is directly contrary to the claimed features in which the monitoring is performed automatically upon start-up of the image forming device without the user directly starting a monitoring program. Moreover, as such, it would be impossible to modify Boulton to start a monitoring progress automatically because in Boulton the entire monitoring process is the *user typing in comments*. It is simply not possible for such an operation to occur without a user starting the monitoring as again in Boulton the monitoring is the user typing in comments or suggestions.

In such ways, it would not have been possible to one of ordinary skill in the art to modify the teachings in Boulton in view of the teachings of Varga in the manner suggested in the outstanding Office Action.

In maintaining the outstanding rejection in view of arguments above, which are also presented in the previous response, the outstanding Office Action states:

Applicant argues that there is no motivation to combine the teachings of Varga to Boulton. However, the examiner respectfully disagrees because both references teach a specific monitoring program. Boulton discloses “A feedback interface of the present invention quickly and easily collects feedback from a user. A feedback viewing interface of the present invention receives feedback data from one or more users and presents the feedback data to a reviewer according to specific preferences of the reviewer. The feedback system of the present invention collects feedback from users and present feedback to reviewers in forms capable of promoting improvements in systems incorporating these roles”. Varga teaches “a self-monitoring vending machine with remote network communication and a process for analyzing information so communicated in order to provide efficient scheduling of service calls”.

Applicants submit the above-noted statements do not at all address the detailed comments presented above as to why the rejection of Boulton in view of Varga is improper.

First, the basis for maintaining the outstanding rejection appears based solely on the position that both Boulton and Varga “teach a specific monitoring program”. Applicants submit that statement is irrelevant. That is, many monitoring programs exist but not all monitoring programs could be viewed as related to each other. For example a monitoring program that monitors a patient’s heart beat or a medical condition would clearly be unrelated to either of the feedback interface of Boulton or the vending machine monitoring in Varga. It simply cannot be the case that all monitoring programs are relevant to one another.

Moreover, the above statements appear to only emphasize the vast differences between the monitoring systems of Boulton and Varga. Boulton as noted above is directed to a feedback interface to collect feedback from a user, which does not appear to have any relevance whatsoever to a self-monitoring vending machine. In Boulton, and as discussed above in detail, the user *must* enter the feedback, and the rejection itself recognizes that Boulton is a self-monitoring vending machine. A user being *required* to enter feedback in a computer environment in Boulton is unrelated clearly to a self-monitoring vending machine as in Varga.

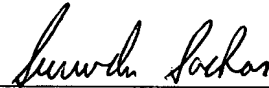
Moreover, the basis for the outstanding rejection has not addressed the basic point that Boulton is specifically designed to *not to be self-monitoring*. Boulton specifically requires the user to enter a feedback mode, and thus Boulton requires a system that is not self-monitoring. The outstanding rejection has ignored the fact that Boulton could not operate for its intended purpose if modified to meet the claim limitations of starting a monitoring operation “automatically upon start-up of the image forming device without the user directly starting a monitoring program”. It is impossible to Boulton to operate for its intended purpose if modified to meet that claim limitation. That argument has not even been addressed in the Office Action.

In view of these foregoing comments applicants respectfully submit clearly the claims as written distinguish over Boulton in view of Varga.

As no other issues are pending in this application, it is respectfully submitted that the present application is now in condition for allowance, and it is hereby respectfully requested that this case be passed to issue.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.



James J. Kulbaski
Registration No. 34,648

Customer Number

22850

Tel: (703) 413-3000
Fax: (703) 413 -2220
(OSMMN 03/06)

Surinder Sachar
Registration No. 34,423
Attorneys of Record